

### **REMARKS**

Claims 21-37 remain pending. Claims 1-20 were previously canceled. Claim 37 has been herein amended. Applicants respectfully submit that no new matter has been added to the application by this Reply. Accordingly, Claims 21-37 are at issue.

#### **Remarks Concerning Rejections Under 35 U.S.C. § 101**

On page 2 of the November 4, 2005 Office Action, the Examiner rejected Claim 37 under § 101 as being directed to non-statutory subject matter. The Examiner opined “claim 37 begins to recite an independently claimed machine, but later recites an independently claimed process.” Because a single claim can be directed to either a system or a method, but not both, the Examiner rejected Claim 37. In light of the amendments made herein, Applicants respectfully traverse that rejection and request reconsideration.

Claim 37 is drawn to a system, which includes system elements such as a power intensity selector and a time cycle selector. The system also includes an application module configured to perform a series of logical steps. Claim 37 is not a method, but rather an application module configured to perform certain functions.

As the Board of Patent Appeals and Interferences explained in *Ex Parte Lyell*, 17 USPQ.2d 1548 (B.P.A.I., 1990), “A claim... cannot be both method and apparatus. It must be clear from its wording that it is drawn to one or the other of these mutually exclusive statutory classes of invention.” In the present application, Claim 37 is clearly drawn to an apparatus, not a method. At issue in *Lyell* was a claim that included apparatus elements *and* method steps. But in the present application, Claim 37 includes only apparatus elements. The fact one of those elements is configured to perform certain latent functionalities does not mean those functionalities are method step elements. Applicants therefore respectfully submit that Claim 37 is directed to statutory subject matter, and request that the § 101 rejection be withdrawn.

#### **Remarks Concerning Rejections Under 35 U.S.C. § 102(b)**

On page 2 of the November 4, 2005 Office Action, the Examiner rejected Claims 21-37 as being anticipated by U.S. Patent No. 5,239,613 to Motev et al. (“Motev”). In light of the remarks made herein, Applicants respectfully traverse that rejection and request reconsideration.

The present application is directed to a system and method for controlling the operating parameters of a setting system. Referring to exemplary Claim 21, a power intensity value is received, and a counter is initiated. The counter is then incremented by the power intensity value. Next, a check is performed to determine if the power intensity value is greater than a base resolution. If so, then a power intensity output value is generated.

By comparison, Motev is directed to a control for electrical curing elements on a screen printing apparatus. Motev includes a controller "capable of supplying power to the heating elements at any level which may be a percentage of the full power" (col. 9, ll. 2-4). When the Motev system is first initiated, full power is provided to the heating elements (col. 9, ll. 14-15). Then, however, "once the contacts have been closed by relay when the temperature controller has sensed that the heating element attaining the set point temperature, the potentiometer setting reduces the power flow to the heating elements to the selected percentage of full power" (col. 9, ll. 15-20).

In other words, Motev allows for a user to set a temperature and a percentage. Once the heating elements of Motev have reached the set temperature, the Motev system reduces the power intensity to the set percentage. Motev does not, however, disclose a counter or a base resolution, both of which are elements of every independent claim of the present invention. In short, Motev is a system for ensuring heating elements do not overheat, whereas the present invention is for ensuring the generated power intensity output signal remains proportional to the base resolution. To accomplish that purpose, the present invention includes a counter and a base resolution, neither of which are disclosed by Motev. In fact, Motev includes no disclosure of a counter of any variety, regardless of purpose.

To anticipate under § 102(b), a reference must disclose each and every element of a claim. Motev does not disclose the base resolution or counter elements of independent Claims 21, 28 and 37. The Examiner's rejection of those claims therefore does not meet the requirements of § 102. Applicants thus respectfully submit that the independent claims of the present invention are patentable over Motev. For the same reasons, dependent Claims 22-27 and 29-36 are patentable as well. Applicants submit that all of the claims of the present invention are patentable over Motev, and request that the § 102 rejection be withdrawn.

**CONCLUSION**

In light of the remarks made herein, Applicants respectfully submit that Claims 21-37 are in condition for allowance. Applicants respectfully request that the Examiner withdraw the rejections and allow the claims to issue. If it will assist the progress of the present application, the Examiner is invited to contact the undersigned Attorney. The Commissioner is hereby authorized to charge Deposit Account No. 23-0280 in connection with any fees associated herewith.

Respectfully submitted,

Date: 6 February 2006

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**CERTIFICATE UNDER (37 C.F.R. § 1.10)**

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